

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA )  
v. )  
DAVID VERNARD SPARKS, )  
*Defendant.* )  
Criminal No. 3:04-CR00391-REP

**RESPONSE OF THE UNITED STATES  
TO DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE**

Comes now, the United States of America, by its undersigned counsel, and files its response to defendant's motion for early termination from federal supervised release. The United States opposes defendant's motion.

Although it appears that the defendant has complied with the terms and conditions of his supervised release thus far, it is the position of the United States that supervision should not terminate early. It appears that his supervised release term will remain in place for an additional 19 months, terminating on or about November 1, 2020.

#### **Background and Procedural History:**

In 2004, the defendant was named in a single-count criminal Indictment charging him with possession with the intent to distribute 50 grams or more of cocaine base. He subsequently entered a plea of guilty to this charge, and in the signed statement of facts, accepted responsibility for having possessed with the intent to distribute *between 150 and*

*500 grams of crack cocaine.* Specifically, the amount of “crack” cocaine he possessed with the intent to distribute was approximately 288 grams, more than a quarter of a kilogram of “crack.” On the basis of his plea, the United States agreed that it would not file an information with the Court seeking the enhanced penalty provisions of 21 U.S.C. § 851, based on the defendant’s prior criminal record.

The defendant has a Criminal History category VI, due to his prior convictions for felony possession of cocaine (two prior convictions); distribution of cocaine; driving under the influence; and multiple driving under revocation convictions. Significantly, the defendant was under a term of good behavior for a 2000 cocaine distribution conviction, and for a 2001 felony possession of cocaine conviction when he committed the offense that brought him before this Court. Furthermore, the defendant was arrested on the instant offense less than two years after he was released from a term of incarceration.

Although he managed to amass 13 criminal history points, the defendant was not assessed any points for a **violent robbery**, a probation violation, a third felony possession of cocaine conviction, another driving under revocation conviction, and a habitual offender conviction. Most concerning to the United States is the prior violent criminal act and the repeated distribution of drugs – in this case, an extremely large quantity of “crack” cocaine was involved in the federal offense.

Despite having a Criminal History category of VI, the defendant did not qualify for a sentence enhancement under the Career Offender provisions of the United States Sentencing Guidelines. The defendant was originally sentenced to a term of 188 months’ incarceration for the drug trafficking conviction, to be followed by a five year term of

supervised release. This sentence was later reduced under the Fair Sentencing Act, however the period of supervised release remained unchanged. The United States has spoken with the defendant's probation officer who does not oppose continued supervision of the defendant.

Based on the defendant's significant prior criminal record, which includes criminal convictions for violence, coupled with the significant drug trafficking activity that he engaged in while under prior terms of supervision, it is the position of the United States that the defendant should remain under a five-year period of supervision, and respectfully asks this Court to continue his period of supervision as originally ordered, until it is to terminate on November 1, 2020.

Respectfully submitted,

G. ZACHARY TERWILLIGER  
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BY: \_\_\_\_\_ /s  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the Government's Response to Defendant's Motion for Termination of Supervised Release was filed with this Court via the ECF filing system on March 18, 2019, with a copy of this response mailed to defendant. A copy was also sent via the ECF filing system to defendant's United States Probation Officer on this same date.

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/s  
Angela Mastandrea-Miller  
Assistant United States Attorney